ORIGINAL

STATE OF ILLINOIS ILLINOIS COMMERCE COMMISSION STIPULATED AGREEMENT NO. 1093

This agreement made and entered into, by and between the State of Illinois acting by and through the Illinois Commerce Commission ("COMMISSION"), The Burlington Northern Santa Fe Railroad Company ("COMPANY"), Bennington Township Road District ("ROAD DISTRICT"), and the State of Illinois, Department of Transportation ("DEPARTMENT").

WITNESSETH:

WHEREAS, it has come to the attention of the Commission through informal correspondence that inquiry should be made into the matter of improving public safety at the TR-142A highway-rail grade crossing of The Burlington Northern Santa Fe Railroad Company's tracks located near Toluca, Marshall County Illinois, designated as crossing AAR/DOT 004 522L, milepost 108.47-M; and

WHEREAS, proper investigation has been made of the circumstances surrounding the aforesaid crossing by a representative of the Commission's Transportation Division Railroad Section; and

WHEREAS, the physical aspects, including geometrics of the intersection, train movements, vehicular traffic volume, and sight distances and other pertinent data relating to the crossing have been obtained and shown on Exhibit A, attached to the Agreement; and

WHEREAS, the parties are mutually agreeable to accomplish the proposed improvement upon a determination of the Commission by Order.

NOW, THEREFORE in consideration of the premises and of the mutual covenants and agreements as hereinafter contained the parties pray that the Commission enter an Order according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law requiring that certain improvement as hereinafter stated be made and that the cost for the proposed improvement be divided among the parties according to law and that in the interest of the statewide traveling public the Grade Crossing Protection Fund of the Motor Fuel Tax Law be required to bear a substantial portion of the cost; To Wit the parties agree as follows:

<u>Section 1</u> The improvement encompassed by this Agreement shall be made in accordance with all applicable State laws, rules, standards, regulations and orders and procedures in general.

<u>Section 2</u> The parties are of the opinion that the proper improvement in the interest of public safety at the aforesaid crossing should be:



a) The Company should install new automatic flashing light signals and gates, controlled by constant warning time circuitry.

Section 3 The Company has prepared a preliminary estimate of cost to accomplish the proposed improvement, which it may be required to perform. Said estimate is attached as Exhibit B. The Company shall upon Order, according to the requirements contained therein, prepare detailed drawings, detailed circuit plans, estimates of cost and any required specifications for the proposed improvement for the approval of the Commission and Department.

Section 4 The Company shall upon Order, according to the requirements contained therein, proceed toward the completion of the proposed improvement, accomplishing the work with its own forces or appropriate contracted services and agrees that an appropriate time for the submission of plans should be (120) days and for the completion of the proposed improvement should be twelve (12) months, from the date of Commission Order subsequent to this Agreement.

<u>Section 5</u> The parties hereto agree that an equitable division of cost for the proposed improvement should be:

(a) The cost for the improvements listed in Section 2(a) is estimated to be \$167,021. The Grade Crossing Protection Fund should pay 90% of the actual installation costs, not to exceed \$150,319. The Company should pay all remaining installation costs, as well as all future operating and maintenance costs.

Section 6 Special Provisions: The Company shall, at six (6) month intervals from the date of Commission Order subsequent to this Agreement, submit to the Director of Processing and Information, Transportation Bureau of the Commission, a written report stating the progress it has made toward completion of the work herein required. Each progress report shall include the Commission Order number, the Order date, the project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and the name, title, mailing address, phone number, facsimile number, and electronic mailing address of Company employee responsible for management of the project.

All bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund shall be submitted to the Fiscal Control Unit of the Illinois Department of Transportation's Bureau of Local Roads and Streets, Illinois Department of Transportation, Central Bureau of Local Roads and Streets, Room 205, 2300 South Dirksen Parkway, Springfield, Illinois 62764. The Department shall send a copy of all bills to the Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures from each party shall be clearly marked "Final Bill". All bills shall be submitted no later than twenty-four (24) months from the date of Commission Order

subsequent to this Agreement. The Department shall, at the end of the 24th month from the Commission Order date, de-obligate all residual funds accountable for installation cost for this project.

Public Act 93-0604 (effective November 21, 2003), which amends 18c-7401 (Safety Requirements for Track, Facilities, and Equipment) of the Illinois Commercial Transportation Law, requires installation of temporary STOP signs whenever the Commission authorizes the installation of automatic flashing light signals or automatic flashing light signals and gates at public highway-rail grade crossings. The temporary STOP signs shall remain in place until the luminous flashing signal or crossing gate devices have been installed. The rail carrier is responsible for the cost of the installation and subsequent maintenance of any required temporary STOP signs.

625 ILCS 5/18c-1701 and 1704 require each "person", as defined by Section 18c-1104, to comply with every regulation or order of the Commission. These sections further provide that any person who fails to comply with a Commission regulation or order shall forfeit to the state not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense. While the Commission expects the parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises the parties that any failure to comply may result in the assessment of such sanctions.

Any person making a Request For Extension Of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

Any person requesting an extension of time that exceeds 30 days must file a Petition For Supplemental Order with the Director of Processing no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions For Supplemental Orders.

Requests For Extension Of Time and Petitions For Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request For Extension Of Time or a Petition For Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered time;

The Commission or its Administrative Law Judge reserves the right to deny Petitions For Supplemental Order and Requests For Extension Of Time, if the reason(s) supporting the request is insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

This Agreement shall be binding upon the parties hereto, their successors or assigns. Upon execution of this Agreement by all parties, the Commission shall enter an appropriate order, within 60 days accepting or rejecting such stipulation according to the provisions contained herein.

In Witness Whereof, the parties have caused this Agreement to be executed by their duly authorized officers, as of the dates indicated herein.

Executed by the Commission this 1st day of April, 2004.

Michael E. Stead

Rail Safety Program Administrator

Attest:

Henry Humphries

Railroad Safety Specialist

Illinois Commerce Commission Stipulated Agreement No. <u>1093</u> concerning improvements at the TR-142A highway-rail grade crossing of The Burlington Northern Santa Fe Railroad Company tracks, near Toluca, Marshall County, Illinois, designated as crossing **AAR/DOT # 004 522L**, **Milepost 108.47-M**.

Executed by The Burlington Northern and Santa Fe Railway Company this 15TH day of 1004.

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Bv:

APPROVED AS TO FORM 4/12/01

rihern Santa Fe Law Department

Attest:

Illinois Commerce Commission Stipulated Agreement No. <u>1093</u> concerning improvements at the TR-142A highway-rail grade crossing of The Burlington Northern Santa Fe Railroad Company tracks, near Toluca, Marshall County, Illinois, designated as crossing **AAR/DOT # 004 522L, Milepost 108.47-M.**

Executed by the Illinois Department of Transportation this 4th day of 2004.

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

By:

Victor A. Modeles 92 Director of Highways Illinois Commerce Commission Stipulated Agreement No. <u>1093</u> concerning improvements at the TR-142A highway-rail grade crossing of The Burlington Northern Santa Fe Railroad Company tracks, near Toluca, Marshall County, Illinois, designated as crossing **AAR/DOT # 004 522L, Milepost 108.47-M.**

Executed by the Bennington Township Road District this 5th day of 2004.

BENNINGTON TOWNSHIP ROAD DISTRICT

By: Cugane F. Danne

DECEIVED MAY 1 7 2004

Illinois Commerce Commission
RAIL SAFETY SECTION

Attest:

Harshall County Engineer

ILLINOIS COMMERCE COMMISSION STIPULATED AGREEMENT CROSSING DATA FORM

GENERAL INFORMATION: See Location Sketch

RAILROAD	BNSF
USDOT#, MILEPOST	004 522L, 108.47-M
STREET, CITY, COUNTY	TR-142A, near Toluca, Marshall County
JURISDICTION (RDWY)	Bennington Township
LOCATION	Rural, Commercial/Residential
STREET SURFACE	Oil/Chip, 17', Condition

CROSSING DATA: See Location Sketch for roadway profile and track centers

TRACK (W-E or N-S)	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
N Main	FDT	24'	Fair
S Main	FDT	24'	Fair

ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	None
TRAFFIC CONTROL	None
ADT & SPEED	79 Vehicles Per Day @ 55 MPH (unposted)
TRAFFIC TYPE	Passenger, School Buses, Hazardous Materials, (all possible)
ADVANCE WARNING	Yes
PAVEMENT MARKING	No Poor

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	68 Per day @ 70 MPH, # of Switch Movements, Day & Night?	Yes
PASSENGER TRAFFIC	00 per day @ MPH	
WARNING DEVICES	Crossbucks	

NOTES:

VISIBILITY STUDY: See Location Sketch

Train Speed	70	MPH
Roadway Speed	55 (unposted)	MPH
Required Stopping Sight Distance (SSD)		
Along Roadway	573	FEET
Along Tracks	730	FEET
Required Clearing Sight Distance (CSD)	1,679	FEET
(Along Tracks)		

Distances calculated per American Association of State Highway and Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets, 2001, Fourth Edition.

QUADRANT	CSD	OBSTRUCTION	SSD	OBSTRUCTION
	(FT)		(FT)	
NE	OK ¹		OK ¹	2
NW	OK ¹		OK ¹	2
SE	OK ¹		OK ¹	2
SW	OK ¹		OK ¹	2

Note: ¹ The installation of automatic flashing light signals and gates eliminates the need to satisfy minimum Sight Distance criteria.

APPROACH GRADES: See Location Sketch

DIRECTION: NORTH			DIRECTION: SOUTH		
DISTANCE (FT)	ELEVATION (FT)	GRADE (%)	DISTANCE (FT)	GRADE (%)	
25	.3	1.2	25	.4	1.6
50	.9	3.6	50	1.0	4

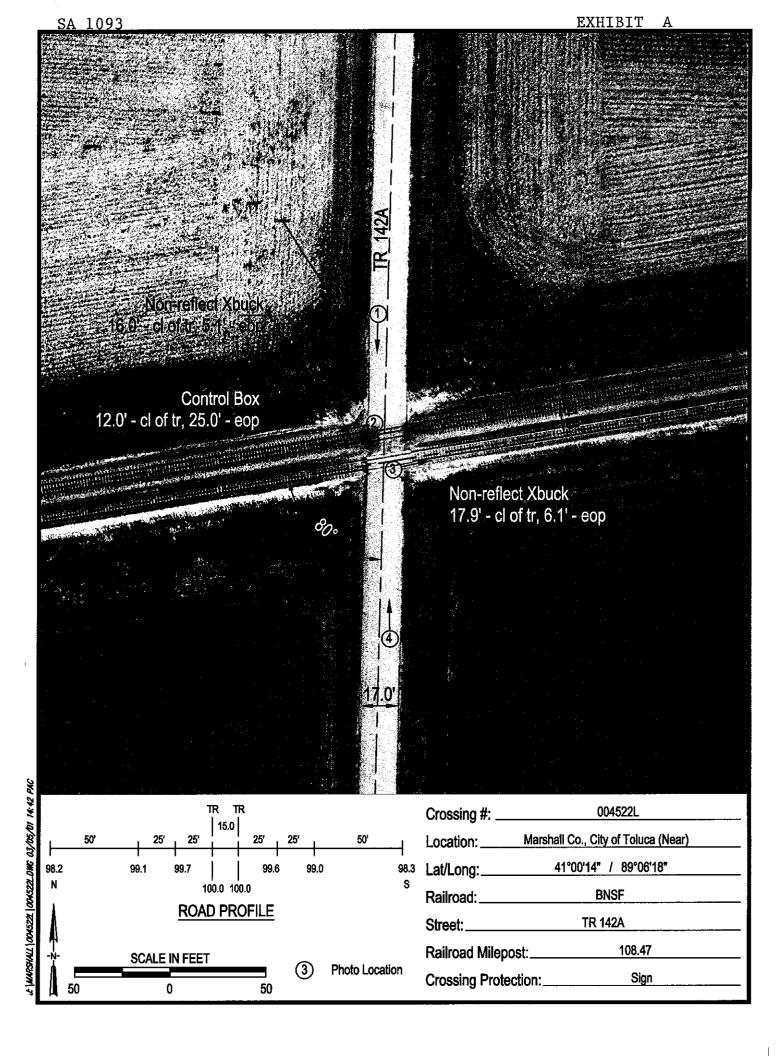
Distance measured from outermost rail.

COMMENTS:

Staff recommends the Grade Crossing Protection Fund (GCPF) and The Burlington Northern Santa Fe Railway Company (BNSF) pay Bennington Township Road District's portion of the cost to install new automatic warning devices. Staff recommends the GCPF pay 90% of the installation costs with the BNSF paying all remaining installation costs, as well as all future operating and maintenance costs.

See Page 3 for Location Sketch (Aerial Photo) of the crossing.

² Quadrants would be restricted if mature crops were in adjacent farm fields.



SA 1093 EXHIBIT B

AFE NUMBER LINE SEGMENT 7000 LOCATION : TOLUCA : 0108.47 PLANITEM NUMBER : PSI004522L MILEPOST RFA NUMBER : BNSF RAILWAY COMPANY DIVISION : CH CPAR NUMBER PROPERTY OF : CHILLICOTHE : 2004 OPERATED BY : BNSF RAILWAY COMPANY SUBDIVISION BUDGET YEAR JOINT FACILITY : STATE OF ILLINOIS TRACK TYPE BUDGET CLASS : 10 : IL COUNTY: MARSHALL % BILLABLE (+/-): 090.01 TAX STATE REPORTING OFFICE: 456 REQUESTER ID : XXXX -MATL DATE SPONSOR VP ENGIN DEPT CODE PROJECT TYPE SGX LOCATION CODE : 381010 MOWGH DOT NUMBER : 004522L DERAILMENT CODE :

PURPOSE, JUSTIFICATION AND DESCRIPTION

INSTALL CONSTANT WARNING AND FLASHERS WITH GATES AT TWP ROAD 142A IN TOLUCA, IL. CHICAGO DIV., CHILLICOTHE SUBDIV., L/S 7000, M.P. 108.47, DOT # 004522L

THE MATERIAL LIST BELOW REPLECTS TYPICAL REPRESENTIVE PACKAGES USED FOR ESTIMATING PURPOSE ONLY.

THEY CAN BE EXPECTED TO CHANGE AFTER THE ENGINEERING PROCESS, DETAILED AND ACCURATE MATERIAL LISTS WILL BE FURNISHED WHEN ENGINEERING IS COMPLETED.

CONTINUING CONTRACTS HAVE BEEN ESTABLISHED FOR PORTIONS OF SIGNAL WORK ON THE BNSF RAILROAD.

THIS ESTIMATE GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR MATERIAL, LABOR, AND OVERHEADS.

THE STATE OF ILLINOIS IS FUNDING THIS PROJECT APPROXIMATELY 90%. THE BNSF RAILROAD IS FUNDING APPROXIMATELY 10%.

MAINTAIN PROPRIETARY CONFIDENTIALITY

CASH CAPITAL NONCASH CAPITAL OPERATING EXP REMOVAL COST BILLABLE TOTALS LABOR COSTS 6,169 0 0 0 55,521 61.690 MATERIAL COSTS 8,077 0 0 0 72,690 80,767 OTHER COSTS 2,457 0 0 0 22,107 24,564 16,703 0 0 0 150,318 167,021 TOTALS

ENGINEERING SERVICES - KANSAS CITY

ESTIMATE REF. NUMBER : PSI004522L - 1--2S

COSTING DATE : 03/31/2004

PRINTED ON : 03/31/2004
ESTIMATED BY : CONTRACTOR
PRINTED BY : CONTRACTOR

Page 2

ACCT CST RSN PPE	DESCRIPTION	QTY/ST	OT U/M	CASH	NONCASH	OPER	REMOVAL
	SIGNAL FIELD LABOR - CAP	840.00	0.0 MH	17,882			
* LABOR SUBTOTAL					0		
1120 313 400 9911	BATTERY	1.0	EA N	5,033			
1120 313 400 9911	BERM WALL, 5' X 10' X10', GALV.	2.0	EA N	4,336			
1120 313 400 9911	BUNGALOW 6X6	1.0	EA N	5,450			
1120 313 400 9911	BUNGALOW MATERIAL	1.0	LS N	5,396			
1120 313 400 9911	CABLE	1.0	EA N	2,227			
1120 313 400 9911	CHARGERO	2.0	EA N	2,000			
1120 313 400 9911	CONCURNIC WARMING STREET DI	1.0	EV M	18 620			
1120 313 400 9911	TIELD MATERIAL	1.0	LS N	4.960			
1120 313 400 3311	FOUNDATION	2.0	EA N	870			
1120 313 400 9911	GATE KEEPER	2.0	EA N	3,550			
1120 313 400 9911	GATE MECH. MODEL 95 COMPLETE	2.0	EA N	10,062			
1120 313 400 9911	LAMP RESISTOR PANEL	1.0	EA N	735			
1120 313 400 9911	LIGHT OUT DETECTOR	1.0	EA N	659			
1120 313 400 9911	MATERIAL FOR ELECTRICAL	1.0	EA N	1,500			
1120 313 400 9911	MISC. MATERIAL	1.0	EA N	2,500			
1120 313 400 9911	RECORDER	1.0	EA N	2,145			
1120 313 400 9911	RTU-6, CELLULAR MONITOR	1.0	EA N	2,060			
1120 313 400 9911	SHUNT, NBS	4.0	EA N	1,196			
1120 313 400 9911	BATTERY BERM WALL, 5' X 10' X10', GALV. BUNGALOW 6X6 BUNGALOW MATERIAL CABLE CFB TRACK CIRCUIT CHARGERS CONSTANT WARNING 2TKBI-DI FIELD MATERIAL FOUNDATION GATE KEEPER GATE MECH. MODEL 95 COMPLETE LAMP RESISTOR PANEL LIGHT OUT DETECTOR MATERIAL FOR ELECTRICAL MISC. MATERIAL RECORDER RTU-6, CELLULAR MONITOR SHUNT, NBS SHUNT, NBS, ADJ. XING	2.0	EA N	598		· 	
* MATERIAL SUBTOT	AL			74,796	0	0	0
1120 410 400 9911	AC POWER SERVICE	1.0	EA	1.500			
	CONTRACT ENGR.	1.0	EA N	6.000			
1120 790 400 9911	FILL DIRT	25.0	CY N	625			
1120 790 400 9911	SURFACE ROCK	20.0	EA EA N CY N CY N	500			
* OTHER SUBTOTAL				8,625	0	0	0
, , , , , , , , , ,				44.405			
* ADDITIVES				14,425			
	EQUIPMENT EXPENSES			4,490			
	DA LABOR OVERHEADS INSURANCE EXPENSES			16,090 2,819			
	USE TAX			4,900			
	OFFLINE TRANSPORTATION			932			
	OFF BIME TRANSFORTATION			332			
* GANG TOTAL	SIGFIELD-5M - SIGNAL FIELD LABOR,	, 5 MAN		144,959	0	0	0
	SIGNAL SHOP LABOR - CAP	80.00					
				1,764	 0		
* LABOR SUBTOTAL				1,704	v	v	•
* ADDITIVES	PAYROLL ASSOCIATED COSTS			1,423			
	EQUIPMENT EXPENSES			442			
	DA LABOR OVERHEADS			1,587			
	INSURANCE EXPENSES			278			
* GANG TOTAL	SIGSHOP-1M - SIGNAL SHOP LABOR, 1	1 MAN		5,494	0	0	0
							
8 343	PLACE SIGNS	8.00	0.0 MH	158			
* LABOR SUBTOTAL				158	0	0	0
1120 308 200	STOP SIGN W/POST	2.0	EA NX	130			
* MATERIAL SUBTOT	AL			130	0	0	0
* ADDITIVES	PAYROLL ASSOCIATED COSTS			127			
1200111400	EQUIPMENT EXPENSES			39			
	DA LABOR OVERHEADS			142			
	INSURANCE EXPENSES			24			
	USE TAX			8			
	OFFLINE TRANSPORTATION			1			

EXHIBIT B

				Pag	ge ż	}
ACCT CST RSN PPE DESCRIPTION	QTY/ST	OT U/M	CASH	NONCASH	OPER	REMOVAL
* GANG TOTAL SECGANG-2M - SECTION GANG (2 MAN)			629	0	0	0
PROJECT SUBTOTAL CONTINGENCIES BILL PREPARATION FEE			151,082 15,108 831	0 0 0	0 0 0	0
PROJECT GROSS COST LESS COST PAID BY OTHERS			167,021 150,318	0 0	0 0	0
PROJECT NET COST			16,703	0	0	0

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

THE B. N. S. F. RAILWAY COMPANY

FHPM ESTIMATE FOR
STATE OF ILLINOIS

LOCATION:- TOLUCA DETAILS OF ESTIMATE PLAN ITEM: PS1004522L VERSION: 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

INSTALL CONSTANT WARNING AND FLASHERS WITH GATES AT TWP ROAD 142A IN TOLUCA, IL. CHICAGO DIV., CHILLICOTHE SUBDIV., L/S 7000, M.P. 108.47, DOT # 004522L

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MAINTAIN PROPRIETARY CONFIDENTIALITY

DESCRIPTION	QUANTITY	U/M	COST	TOTAL \$

LABOR				

PLACE SIGNS	8.00	MH	158	
SIGNAL FIELD LABOR - CAP	840.00	MH	17,882	
SIGNAL SHOP LABOR - CAP	80.00	MH	1,764	
PAYROLL ASSOCIATED COSTS			15,975	
EQUIPMENT EXPENSES			4,971	
DA LABOR OVERHEADS			17,819	
INSURANCE EXPENSES			3,121	
TOTAL LABOR COST			61,690	61,690
MATERIAL				
	1 00	EN M	E 033	
BATTERY		EA N	5,033	
BERM WALL, 5' X 10' X10', GALV.		EA N	4,336	
BUNGALOW 6X6		EA N	5,450	
BUNGALOW MATERIAL	1.00		5,396	
CABLE		EA N	2,227	
CFB TRACK CIRCUIT		EA N	2,000	
CHARGERS		LS N	899	
CONSTANT WARNING 2TKBI-DI		EA N	18,620	
FIELD MATERIAL		LS N	4,960	
FOUNDATION		EA N	870	
GATE KEEPER		EA N	3,550	
GATE MECH. MODEL 95 COMPLETE		EA N	10,062	
LAMP RESISTOR PANEL		EA N	735	
LIGHT OUT DETECTOR		EA N	659	
MATERIAL FOR ELECTRICAL		EA N	1,500	
MISC. MATERIAL		EA N	2,500	
RECORDER	1.00	EA N	2,145	
RTU-6, CELLULAR MONITOR	1.00	EA N	2,060	
SHUNT, NBS	4.00	EA N	1,196	
SHUNT, NBS, ADJ. XING	2.00	EA N	598	
STOP SIGN W/POST	2.00	EA NX	130	
USE TAX			4,908	
OFFLINE TRANSPORTATION			933	
momas vampass coom			00 769	90. 50
TOTAL MATERIAL COST			80,767	80,767
OTHER				

AC POWER SERVICE	1.00	EA	1,500	

CONTRACT ENGR. FILL DIRT SURFACE ROCK

TOTAL BILLABLE COST

TOTAL OTHER ITEMS COST

PROJECT SUBTOTAL CONTINGENCIES BILL PREPARATION FEE

GROSS PROJECT COST LESS COST PAID BY BNSF

		EXHIBIT	В
1.00 25.00 20.00	EA N CY N CY N	Page 6,000 625 500	5
		8,625	<u>-</u> 8,625
			151,082 15,108 831
			167,021 16,703

150,318

